



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
*Olympia, Washington 98504*

October 20, 2014

CERTIFIED MAIL # 7011 1570 0002 7809 5841

Elaine Couture, Regional Chief Executive  
Providence Health Care  
101 West Eighth  
Spokane, Washington 99204

RE: CN 14-16

Dear Ms. Couture:

We have completed review of the Certificate of Need (CN) application submitted by Providence Health Care proposing to establish an ambulatory surgery center (ASC) in Spokane County. For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Providence Health Care agrees to the following in its entirety.

**Project Description:**

This certificate approves the establishment of a four-operating room ambulatory surgery center in Spokane Valley, within Spokane County. The surgery center would serve patients of all ages who require surgical services that can be served appropriately in an outpatient setting. Services to be provided at the ASC include gastroenterology, gynecology, ENT, neurology, orthopedics, plastics, podiatry, urology, vascular surgery, and general surgery as described in the application.

**Conditions:**

1. Providence Health Services-Washington agrees with the project description as stated above. Providence Health Services-Washington further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services, Providence Health Services-Washington will identify the four operating rooms of the seven built that will be used under this approval. Use of the remaining three operating rooms requires prior Certificate of Need review and approval.

3. Providence Health Services-Washington must license the ambulatory surgery center under chapter 70.230 of the Revised Code of Washington. Providence Health Services-Washington must agree to maintain licensure for the ambulatory surgery center under this chapter.
4. The ambulatory surgery center must maintain its Medicare and Medicaid certification throughout the operation of the facility, regardless of ownership.
5. Providence Health Services-Washington and any subsequent owners of the ambulatory surgery center must not develop any policies or practices that discriminate against admission of patients based on payer source.
6. Providence Health Services-Washington will provide to the department for review and approval a copy of the adopted Admission Policy to be used at the ambulatory surgery center. The Admission Policy must be consistent with the draft policy provided in the application.
7. Providence Health Services-Washington will provide to the department for review and approval a copy of the adopted Non-Discrimination Policy to be used at the ambulatory surgery center. The Non-Discrimination Policy must be consistent with the draft policy provided in the application.
8. Providence Health Services-Washington will provide to the department for review and approval a copy of the adopted charity care policy to be used at the ambulatory surgery center. The adopted Charity Care Policy must be consistent with the draft policy provided in the application.
9. Prior to providing services at the surgery center, Providence Health Services-Washington will submit to the department for review and approval a listing of key staff for the surgery center. Key staff includes all credentialed or licensed management staff, including the director of nursing, and medical director.
10. The ambulatory surgery center will provide charity care in compliance with the charity care policy referenced above, or any subsequent policies reviewed and approved by the Department of Health. Providence Health Services-Washington will use reasonable efforts to provide charity care at the ambulatory surgery center in an amount comparable to or exceeding the average amount of charity care provided by the four hospitals in the Eastern Washington Region. Currently, this amount is 1.94% for gross revenue and 4.92% for adjusted revenue. Providence Health Services-Washington will maintain records at the ambulatory surgery center documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies.

**Approved Costs:**

The proposed ambulatory surgery center would be located within a larger building known as the Providence Medical Park. Costs for the entire building, including land acquisition, construction, and equipment is approximately \$44,000,000. Approximately 20% of the total costs are allocated to the ambulatory surgery center. The approved capital expenditure is \$8,441,110.

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Page 3 of 3

Please notify the Department of Health within 20 days of the date of this letter whether you accept the above project description, conditions, and capital costs for your project. If you accept these in their entirety, your application will be approved and a Certificate of Need sent to you.

If you reject any of the above provisions, your application will be denied. The department will send you a letter denying your application and provide you information about your appeal rights.

Send your written response to the Certificate of Need Program, at one of the following addresses.

Mailing Address:

Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

Physical Address:

Department of Health  
Certificate of Need Program  
111 Israel Road SE  
Tumwater, WA 98501

If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,



Steven M. Saxe, FACHE  
Director, Community Health Systems

Enclosure

**EVALUATION DATED OCTOBER 20, 2014, OF THE CERTIFICATE OF NEED APPLICATION  
SUBMITTED BY PROVIDENCE HEALTH & SERVICES-WASHINGTON PROPOSING TO  
ESTABLISH AN AMBULATORY SURGERY CENTER IN SPOKANE COUNTY**

**APPLICANT DESCRIPTION**

Providence Health & Services-Washington is a non-profit corporation, incorporated in the state of Washington and is a registered Washington State charity. Providence Health & Services-Washington is wholly-owned by Providence Health & Services. [source: Application, Exhibits 1A & 1B and Providence Health & Services website]

This application was submitted by Providence Health & Services-Washington under the dba of Providence Health Care. Since Providence Health Care is not an active Washington State corporation,<sup>1</sup> the department considers Providence Health & Services-Washington [PHS-W] to be the applicant.

**BACKGROUND INFORMATION**

On March 26, 2013, the Certificate of Need Program issued an exemption to Providence Physician Services Co., a physician group associated with Providence Health Care.<sup>2</sup> The exemption allowed the establishment of an ambulatory surgery center [ASC] in Spokane County without undergoing prior Certificate of Need review. On April 22, 2013, Rockwood Health System submitted its request for an Adjudicative Proceeding related to the department's exemption approval.<sup>3</sup> On February 20, 2014, the health law judge released "*Prehearing Order #2: Order on Summary Judgment*" and overturned the program's exemption approval. The health law judge decision required Providence Physician Services Co. to submit a Certificate of Need application before the ASC could be established. [source: CN historical files]

**PROJECT DESCRIPTION**

It is noted that the physician group, Providence Physician Services Co, did not submit this application; rather, the application was submitted by PHS-W. The application proposes to establish a multispecialty ASC at 16528 East Desmet Court, Spokane Valley, within Spokane County. PHS-W states that the surgery center would have four operating rooms (ORs), three procedure rooms, pre- and post-operative and recovery rooms, administration/reception space, and physician offices. PHS-W intends to license the ASC as a freestanding surgery center, rather than under the license of any of the Providence hospital licenses. Further, the ASC would have its own accreditation and certification. [source: Application, p11 and Exhibit 7; June 27, 2014, PUI supplemental information, p2]

The ASC would serve patients of all ages who require surgical services that can be served appropriately in an outpatient setting. Services to be provided at the ASC include gastroenterology, gynecology, ENT, neurology, orthopedics, plastics, podiatry, urology, vascular surgery<sup>4</sup>, and general surgery. [source: Application, p14 and January 17, 2014, supplemental information, p2]

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<sup>1</sup> 'Providence Health Care' is identified as an inactive corporation on the Washington Secretary of State website for the following three separate UBI numbers: 601872757, 600503828, and 601391685.

<sup>2</sup> Determination of Reviewability #13-03.

<sup>3</sup> Master Case Number [MCN] 2013-614.

<sup>4</sup> 'Vascular surgery' encompasses all operations on the cardiovascular system that can be performed in an outpatient setting. Examples of vascular surgery in an outpatient setting include repair of blood vessel lesions, removal of clots in grafts, insertion, revision, or removal of infusion pumps.

The proposed ASC would be located within a larger building known as the Providence Medical Park. The entire building is 133,620 gsf and the ASC would be housed in 13,255 gsf, which is approximately 10% of the building. Groundbreaking for this building occurred in September 2012. Costs for the entire building, including land acquisition, construction, and equipment is approximately \$44,000,000. [source: Application, p33 and Providence website] Approximately 20% of the total costs, \$8,441,110, are allocated to the ASC. Of the \$8,441,110, approximately 42% is associated with moveable equipment; 39% is associated with construction costs and fixed equipment; and the remaining 19% is for land purchase and improvements; fees, taxes, and interim interest. [source: Application, p33]

Because the physician group, Providence Physician Services Co, obtained the Certificate of Need exemption in March 2013, the ASC was expected to be operational in April 2014 as an exempt ASC. The physician group intended to operate the ASC under the exemption while this project, submitted by PHS-W, was undergoing Certificate of Need review. Once the adjudicative proceeding was filed by Rockwood Health System, the physician group did not vigorously pursue establishment of the exempt ASC. [source: February 20, 2014, supplemental information, pp2-3] Further, while the health law judge's order was signed on February 20, 2014, it was released on February 25, 2014—after PHS-W could supplement this application. As a result, the application does not identify a practical completion date for the project.

In order to identify a reliable completion date, staff reviewed the timing identified in this application. This application was filed in November 2013 and stated that the ASC would be operational in April 2014—within approximately five months. Using five months as a reasonable timeline and taking into account a September 2014 decision date, the program expects this ASC to be operational by the end of year 2014. Under this timeline, year 2015 would be the ASC's first full calendar year of operation as a freestanding surgery center and 2017 would be year three. [source: Application p15; and February 20, 2014, supplemental information, p2; and February 20, 2014, 'Prehearing Order #2: Order on Summary Judgment.']

### **Public Comments on Number of Operating Rooms**

During the review of this project, Rockwood Health System provided comments asserting that the line drawings provided in application that show four ORs and three procedure rooms are inaccurate. Rockwood Health System provided a copy of media communications from PHS-W to the Spokane community indicating that the three procedure rooms would be 'open soon' to provide endoscopy services. Rockwood Health System concludes that the application should be denied for the following reasons:

- PHS-W has not requested a determination of reviewability for its three procedure rooms;
- the application does not include the three procedure rooms in its count of ORs; and
- it is too late to amend the application to include them.

[source: Rockwood Health System public comment, pp4-5]

In response to the assertions above, PHS-W clarifies that the proposed ASC would be located in a larger facility known a Providence Medical Park Spokane Valley [Medical Park]. Services to be provided at the Medical Park include urgent care, primary care, diagnostic services, and space for specialty physician offices, lab, pharmacy, and an imaging center. PHS-W states it does not intend to provide surgical procedures at the ASC without first obtaining a CN, however non-surgical medical care would be provided at the Medical Park upon opening because they do not require prior CN review and approval. PHS-W asserts that its line drawings showing four ORs and three procedure rooms are accurate. [source: April 18, 2014, PHS-W rebuttal comments, p4-5]

## Department's Review

During the review of this project, the department determined that clarification of certain aspects of the project was necessary. On July 14, 2014, the department declared a Pivotal Unresolved Issue as allowed under rule<sup>5</sup> and requested clarification or additional information on the three topics below.

- Intended licensure of the proposed ASC;
- A description of the services proposed to be provided in the four ORs and three procedure rooms; and
- A description of the services proposed to be provided in the procedure room identified as "*procedure room peds.*"

After PHS-W provided the PUI information, the department allowed public comments and rebuttal comments on the PUI documents submitted by PHS-W. [source: June 27, 2014, PUI documents submitted by PHS-W; July 14, 2014, PUI comments submitted by Rockwood Health System; and July 29, 2014, PUI rebuttal comments submitted by PHS-W]

For Washington State, ASCs must obtain either a Certificate of Need or an exemption from Certificate of Need before becoming operational, even if the facility intends to provide solely endoscopic procedures. As previously discussed, Providence Physician Services Co. obtained an exemption from Certificate of Need in March 2013, and then began to build out the Medical Park, with an exempt ASC. Services to be provided at the exempt ASC include endoscopy. Once the department's exemption approval was overturned, however, Providence Physician Services Co. no longer had the approval to begin providing services at the ASC, including endoscopy services, before obtaining a Certificate of Need. PHS-W's rebuttal comments assert that endoscopy services are not surgical. This statement implies that it can begin providing these services at the ASC before receiving Certificate of Need approval. PHS-W is precluded from providing any services at the ASC, including endoscopy, before obtaining a Certificate of Need.

In its PUI responses, PHS-W provided the following clarification of the types of procedures that would be provided in the three procedure rooms. [source: June 27, 2014, PUI documents submitted by PHS-W]

*"...these include procedures that could be performed under a local anesthesia but that do not require sedation of the patient. These common procedures include (1) pain management, (2) wound closures (aka stitches or sutures), (3) excision of lesions, such as lipoma, sebaceous cysts and mole removal, (4) removal of foreign bodies, (5) urology procedures, such as cystoscopy, circumcision, urodynamics, or vasectomy, (6) hand-trigger finger procedures, and (7) general procedures, such as those for an umbilical hernia or breast biopsy. ....Providence is willing to perform endoscopy and other GI procedures only in the Certificate of Need approved surgical suites at this time."*

Specific to the procedure room identified as '*procedure room peds,*' PHS-W provided the following clarification on the types of procedures that would be provided. [source: June 27, 2014, PUI documents submitted by PHS-W]

*"The floor plan anticipated that one of the three procedure rooms could be dedicated to pediatric patients. However, as can be seen on the floor plan, this room is proposed to be built to the same configuration as the other two procedure rooms, and there is no reason it would have to be dedicated to pediatric patients. At this time, we do not intent to provide pediatric services in the procedure room. In the future, the procedures that could be performed on pediatric patients in a procedure room would be those procedures that require local anesthesia but that would not require sedation of the child. These include, but are not limited to, wound closures, excision of lesions, removal of foreign bodies, urology procedures, and other general procedures."*

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<sup>5</sup> Washington Administrative Code 246-310-090 and 246-310-160.

After reviewing the clarification provided by PHS-W above, in its rebuttal documents, Rockwood Health System provided a listing of procedures, with correlating CPT<sup>6</sup> codes, used by CMS as a basis for reimbursement. Based on this documentation, Rockwood Health continues to conclude that the procedures identified in PHS-W's PUI documents are surgical procedures that would be provided in the procedure rooms, and the project should be considered seven ORs, rather than four ORs. [source: July 14, 2014, Rebuttal documents submitted by Rockwood Health System]

When reviewing the types of procedures to be provided at the ASC, the department concludes they are the same procedures regardless of the room setting. PHS-W appears to believe the difference is the type of anesthesia to be used--local anesthetic in the procedure rooms and sedation in the ORs. For Certificate of Need purposes, the type of anesthesia used is not a deciding factor of whether the room is considered an OR. Additionally, the department's ASF licensing office provides the following definition for ambulatory surgical facility.<sup>7</sup>

*"Ambulatory surgical facility" means any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within twenty-four hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal Social Security Act. An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispecialty outpatient surgical services, irrespective of the types of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice. [emphasis added]*

Based on the information above, department concludes that PHS-W intends to build out the proposed ASC to house seven ORs; while PHS-W may limit the types of procedures that would be provided in some of the rooms, from a CN and licensing standpoint, all seven rooms are considered ORs. Since the application proposes the establishment of a four OR ASC, if the project is approved, the number of ORs would be limited to four as requested in the application.

Additionally, if the project is approved, PHS-W would be limited to providing all surgical services, including endoscopic procedures, only in a CN approved OR. If PHS-W wanted to increase its OR capacity in the future, a new Certificate of Need is required.

While the number of ORs requested in this application is key in the review, the confusion is not grounds for denial of this project as asserted by Rockwood Health System. Throughout the application review and during the PUI process, PHS-W continues to assert that this project requests approval of a four OR ASC. Therefore, the remainder of this evaluation will focus on PHS-W's request for a four OR facility.

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<sup>6</sup> CPT (Current Procedural Terminology) is a system developed by the American Medical Association for standardizing the terminology and coding used to describe medical services and procedures that allows for comparability in pricing, billing, and utilization review.. [source: Mosby's Medical Dictionary, 8th edition]

<sup>7</sup> WAC 246-330-010.

## **APPLICABILITY OF CERTIFICATE OF NEED LAW**

This project is subject to review under Revised Code of Washington 70.38.105(4)(a) and Washington Administrative Code 246-310-020(1) as the establishment of a new healthcare facility.

## **EVALUATION CRITERIA**

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

*“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.*

*(a) In the use of criteria for making the required determinations, the department shall consider:*

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

*“The department may consider any of the following in its use of criteria for making the required determinations:*

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington state;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment).<sup>8</sup> Additionally, WAC 246-310-270 (ambulatory surgery) contains service or facility specific criteria for ASC projects and must be used to make the required determinations.

## **TYPE OF REVIEW**

This application was reviewed under the regular review timeline outlined in WAC 246-310-160, which is summarized below.

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<sup>8</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6).

## **APPLICATION CHRONOLOGY**

<b>Action</b>	<b>Providence Health &amp; Services</b>
Letter of Intent Submitted	May 22, 2013
Application Submitted	November 14, 2013
Department's pre-review activities <ul style="list-style-type: none"> <li>• DOH 1st Screening Letter</li> <li>• PH&amp;S Responses Received</li> <li>• DOH 2nd Screening Letter</li> <li>• PH&amp;S Responses Received</li> </ul>	December 9, 2013 January 17, 2014 January 31, 2014 February 20, 2014 and February 24, 2014
Beginning of Review <ul style="list-style-type: none"> <li>• public comments accepted throughout review</li> <li>• No public hearing requested or conducted</li> </ul>	February 27, 2014
End of Public Comment	April 3, 2014
Rebuttal Comments Submitted	April 18, 2014
Department's Anticipated Decision Date	June 2, 2014
Department Declares Pivotal Unresolved Issue (PUI)	June 12, 2014
PH&S Submits PUI Documents	June 27, 2014
End of Public Comment on PUI Documents	July 14, 2014
PH&S Rebuttal Comments on PUI Documents	July 29, 2014
Department's Anticipated Decision Date	September 15, 2014
Anticipated Decision Date with 30-day Extension	October 15, 2014
Department's Actual Decision Date	October 20, 2014

## **AFFECTED PERSONS**

Washington Administrative Code 246-310-010(2) defines “affected person” as:

“...an “interested person” who:

- (a) *Is located or resides in the applicant's health service area;*
- (b) *Testified at a public hearing or submitted written evidence; and*
- (c) *Requested in writing to be informed of the department's decision.*”

Throughout the review of this project the partnership of Rockwood Health System sought and received affected person status. The health system operates the following three healthcare facilities in Spokane County and each qualifies for affected person status under WAC 246-310-010(2).

### **Deaconess Hospital**

Located at 800 West Fifth Avenue in Spokane [99204], Deaconess Hospital is licensed for 388 acute care beds. Services provided at Deaconess Hospital include medical surgical services, level II intermediate care nursery, and level III neonatal intensive care unit. The hospital is currently accredited by the Joint Commission, and is a recognized level III adult trauma hospital in the state. [source: CN files]

### **Valley Hospital and Medical Center**

Valley Hospital and Medical Center is located at 12606 East Mission Avenue in Spokane Valley [99216]. Licensed for 123 acute care beds, the hospital provides general acute care services, is accredited by the Joint Commission and a recognized level III adult trauma hospital. [source: CN files]

## Rockwood Clinic

Rockwood Clinic has multi-specialty clinics located in the states of Washington and Idaho. For the Spokane area, sites are located in downtown, north, south, and the valley. Rockwood Clinic provides an array of services including radiation, ENT, sports medicine, digestive, and OB/GYN.<sup>9</sup> [source: Rockwood Clinic website]

## **SOURCE INFORMATION REVIEWED**

- Providence Health & Services' Certificate of Need application received on November 14, 2013
- Providence Health & Services' supplemental information received January 17, 2014, February 20, 2014, and February 24, 2014
- Public comments received at the Certificate of Need office by 5:00 pm on April 3, 2014
- Year 2013 Annual Ambulatory Surgery Provider Survey for Surgical Procedures Performed During Calendar Year 2012
- Rebuttal comments from Providence Health & Services received April 18, 2014
- Rebuttal comments from Rockwood Health System received April 18, 2014
- Providence Health & Services' Pivotal Unresolved Issued (PUI) documents received on June 27, 2014
- Rockwood Health System public comments on PUI documents received on July 14, 2014
- Providence Health & Services' rebuttal comments on PUI documents received on July 29, 2014
- Licensing data provided by the Medical Quality Assurance Commission
- Prehearing Order #2: Order on Summary Judgment signed on February 20, 2014, and released on February 25, 2014
- Washington State Secretary of State website at [www.sos.wa.gov](http://www.sos.wa.gov)
- Washington State Department of Revenue website at [www.dor.wa.gov](http://www.dor.wa.gov)
- Providence Health & Services website at [www.providence.org](http://www.providence.org)
- Deaconess Hospital website at [www.deaconessspokane.com](http://www.deaconessspokane.com)
- Valley Hospital website at [www.spokanevalleyhospital.com](http://www.spokanevalleyhospital.com)
- Rockwood Clinic website at [www.rockwoodclinic.com](http://www.rockwoodclinic.com)
- Joint Commission website at [www.qualitycheck.org](http://www.qualitycheck.org)

## **CONCLUSION**

For the reasons stated in this evaluation, the application submitted by Providence Health Services-Washington proposing to establish a Certificate of Need approved ambulatory surgery center is consistent with applicable criteria of the Certificate of Need Program, provided Providence Health Services-Washington agrees to the following in its entirety.

## **Project Description:**

This certificate approves the establishment of a four-operating room ambulatory surgery center in Spokane Valley, within Spokane County. The surgery center would serve patients of all ages who require surgical services that can be served appropriately in an outpatient setting. Services to be provided at the ASC include gastroenterology, gynecology, ENT, neurology, orthopedics, plastics, podiatry, urology, vascular surgery, and general surgery as described in the application.

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<sup>9</sup> This list of services is not intended to be all inclusive.

**Conditions:**

1. Providence Health Services-Washington agrees with the project description as stated above. Providence Health Services-Washington further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services, Providence Health Services-Washington will identify the four operating rooms of the seven built that will be used under this approval. Use of the remaining three operating rooms requires prior Certificate of Need review and approval.
3. Providence Health Services-Washington must license the ambulatory surgery center under chapter 70.230 of the Revised Code of Washington. Providence Health Services-Washington must agree to maintain licensure for the ambulatory surgery center under this chapter.
4. The ambulatory surgery center must maintain its Medicare and Medicaid certification throughout the operation of the facility, regardless of ownership.
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6. Providence Health Services-Washington will provide to the department for review and approval a copy of the adopted Admission Policy to be used at the ambulatory surgery center. The Admission Policy must be consistent with the draft policy provided in the application.
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9. Prior to providing services at the surgery center, Providence Health Services-Washington will submit to the department for review and approval a listing of key staff for the surgery center. Key staff includes all credentialed or licensed management staff, including the director of nursing, and medical director.
10. The ambulatory surgery center will provide charity care in compliance with the charity care policy referenced above, or any subsequent policies reviewed and approved by the Department of Health. Providence Health Services-Washington will use reasonable efforts to provide charity care at the ambulatory surgery center in an amount comparable to or exceeding the average amount of charity care provided by the four hospitals in the Eastern Washington Region. Currently, this amount is 1.94% for gross revenue and 4.92% for adjusted revenue. Providence Health Services-Washington will maintain records at the ambulatory surgery center documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies.

**Approved Costs:**

The proposed ambulatory surgery center would be located within a larger building known as the Providence Medical Park. Costs for the entire building, including land acquisition, construction, and equipment is approximately \$44,000,000. Approximately 20% of the total costs are allocated to the ambulatory surgery center. The approved capital expenditure is \$8,441,110.

## **CRITERIA DETERMINATIONS**

### **A. Need (WAC 246-310-210)**

Based on the source information reviewed and the applicant's agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Providence Health Services-Washington has met the applicable need criteria in WAC 246-310-210.

- (1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.

#### WAC 246-310-270(9)-Ambulatory Surgery Numeric Methodology

The Department of Health's Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270 for determining the need for additional ASCs in Washington State. The numeric methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient ORs in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 secondary health services planning areas. The proposed ASC would be located in the Spokane County planning area.

The methodology estimates OR need in a planning area using multi-steps as defined in WAC 246-310-270(9). This methodology relies on a variety of assumptions and initially determines existing capacity of dedicated outpatient and mixed-use operating room in the planning area, subtracts this capacity from the forecast number of surgeries expected in the planning area in the target year, and examines the difference to determine:

- a) whether a surplus or shortage of ORs is predicted to exist in the target year; and
- b) if a shortage of ORs is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.

Data used to make these projections specifically exclude endoscopy rooms and procedures.

#### **PHS-W Numeric Methodology**

[source: Application, 19-22 and Exhibit 10]

PHS-W provided a numeric methodology in the application and concluded that there is a need for 19.57 dedicated outpatient ORs in Spokane County for year 2017. [source: Application, 19-22 and Exhibit 10]

There are a number of data points that are used in the methodology. During the review of this project, Rockwood Health System provided extensive comments related to the applicant's methodology and data points used. Between the applicant and Rockwood Health System, a total of seven different methodologies were submitted, each relying on slightly different data. The data points are listed in the table below.

<b>Data Points</b>
<b>Planning Area</b>
<b>Population Estimates and Forecasts</b>
2012 Total Planning Area Surgical Cases
Use Rate
Percent of surgery ambulatory vs inpatient
Average minutes per case
<b>OR annual capacity in minutes</b>
Existing providers/ORs

The three data points shown above in bold were not disputed by Rockwood Health System. Below is a summary of these data points and numbers used.

### **Undisputed Data Points**

#### Planning Area

Spokane County, as a whole. Since this planning area is identified in WAC 246-310-270, the department concurs with both the applicant and affected person on the planning area data point.

#### Population Estimates and Forecasts

Based on Office of Financial Management Population data released May 2012, year 2012 population is 475,600; year 2017 population is projected at 498,867. The department's calculations show a slightly higher population in year 2017 of 499,259. Since the difference is only 392 persons, and both the applicant and affected person agree on the population used, the department will concede this population forecast number.

#### OR Annual Capacity in Minutes

The default for OR annual capacity in minutes is identified in WAC 246-310-270 as 68,850 for outpatient surgery and 94,250 inpatient or mixed use surgery. These numbers were not disputed and will be used in the methodology.

### **Disputed Data Points**

For the remaining data points shown in the table below, Rockwood Health System provided extensive public comments and PHS-W provided extensive rebuttal comments.

<b>Data Points</b>
2012 Total Planning Area Surgical Cases
Use Rate
Percent of surgery: ambulatory vs inpatient
Average minutes per case
Existing Providers/ORs

These five data points are tightly connected. When the 2012 total number of surgical cases is divided by the year 2012 population, the result is a planning area use rate. The use rate is then applied to the 2017 projected population.

The percentage of ambulatory surgery is calculated by dividing the total number of ambulatory cases by the total number of cases in the planning area. Percentage of inpatient surgery is calculated using total number of inpatient cases. The percentages are then applied to the 2017 projected number of cases.

The average minutes per case is calculated by dividing the total number of minutes by the total number of surgical cases. Ambulatory and inpatient are calculated separately. The average minutes are applied to the projected number of cases.

Once the methodology projects the number of ORs needed in a planning area, the existing number of ORs is subtracted, resulting in the net need or surplus of ORs for a planning area.

Consistently used in the four data points to project ORs in a planning area is the total planning area surgical cases. This topic was vigorously disputed by both PHS-W and Rockwood Health System and is discussed below.

### 2012 Total Planning Area Surgical Cases

To determine the number of surgical cases in year 2012, three data sources can be reviewed.

- Year 2013 annual ASC utilization survey;
- DOH internal database known as Integrated Licensing & Regulatory System, or ILRS; and
- DOH Hospital and Patient Data Systems [HPDS] quarterly data.

Because there is no mandatory reporting requirement for utilization of ASCs, the department sends an annual utilization survey to all hospitals and known ASCs in the state. When this application was submitted in November 2013, the most recent utilization survey collected data for year 2012.<sup>10</sup> The data provided in the utilization survey is used if available. If a facility does not complete and return a utilization survey, then two other data sources can be used.

For hospitals, HPDS quarterly data is used. This is data that is submitted by each hospital to the Department of Health's Hospital and Patient Data Systems office each quarter. The data collected includes inpatient and outpatient surgical cases, but does not identify the number of operating rooms at each hospital.

There are six hospitals operating in Spokane County. They are:

- Deaconess Hospital and Valley Hospital, both part of the Rockwood Health System;
- Providence Holy Family and Providence Sacred Heart Medical Center and Children's Hospital, both part of the Providence Health System;
- Shriner's Hospital for Children; and
- St. Luke's Rehabilitation Hospital.

Shriner's Hospital for Children is a pediatric hospital dedicated to providing primarily orthopedic services to children. HPDS quarterly data shows this hospital provided 675 surgeries in year 2012 and has two ORs. Since PHS-W intends to provide surgical services to pediatric and adult patients, data for Shriner's Hospital for Children will be included in this review.

As a dedicated rehabilitation hospital, St. Luke's Rehabilitation Hospital does not have OR capacity or provide any surgical services. St. Luke's Rehabilitation Hospital will not be included in this review.

In year 2013, the remaining four hospitals were sent surveys to collect data for year 2012 utilization. Three of the four hospitals responded to the survey in year 2013. Year 2012 survey data for Valley Hospital was not completed and returned until March 31, 2014, the last day of public comment for this project.

For the methodology in this application, PHS-W relied on HPDS quarterly data for the two Rockwood Health System hospitals. PHS-W provided the following rationale for using the quarterly data for the two hospitals.

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<sup>10</sup> In April 2014, the department again sent the annual utilization survey to collect utilization for year 2013. Review of this project began in February 2014, therefore, utilization date for year 2013 will not be used in this review.

- Valley Hospital survey data was not available to the applicant until public comment. Using the quarterly data, PHS-W determined that the hospital had two dedicated outpatient ORs and calculated the number of outpatient cases in those rooms.
- For Deaconess Medical Center, PHS-W asserted that the 2012 utilization survey responses were inconsistent with data reported to HPDS for the same time frame. For example, the total number of surgeries [cases] reported in the survey was approximately one-fourth lower than the number reported in the quarterly data.
- The 2012 survey responses were also inconsistent with historical quarterly data reported to HPDS for years 2010 and 2011.
- The 2012 quarterly data submitted by Deaconess Medical Center was consistent with 2010 and 2011 quarterly data submitted to HPDS.  
[source: Application, pp20-21]

PHS-W's use of quarterly HPDS data for both Valley Hospital and Deaconess Medical Center resulted in a larger number of cases, and when applied to the population, resulted in a use rate of 165.51 per 1,000 population. [source: Application, 19-22 and Exhibit 10]

Rockwood Health System completed and submitted the 2012 utilization survey for Valley Hospital on March 31, 2014. In its comments, Rockwood Health System recognized that PHS-W did not have the data to use when this application was submitted, but asserted it should be used by the department to evaluate this project.

The 2013 survey collected 2012 data and was due in May 2013. Because of time and staffing constraints, the department's data collection did not include follow up with the facilities that did not respond. Generally, the department would not consider using utilization data submitted nine months after the due date. Since Rockwood Health System submitted the data during public comment, the timing allowed PHS-W an opportunity to provide rebuttal comments on the data.

Additionally, the department typically does not accept revisions to the numeric methodology by an applicant during rebuttal. However, since Valley Hospital's 2012 utilization data was not available until public comment and the majority of Rockwood Health System's public comments focused on the numeric methodology, in fairness, the department also accepted PHS-W's revised numeric methodology in its rebuttal comments, which included Valley Hospital's survey data.

Within its application, public comment, and rebuttal, PHS-W questioned whether the 2012 utilization data for both Valley Hospital and Deaconess Medical Center was correct. In its public comments and rebuttal, Rockwood Health System asserted the data for both hospitals was correct and should be used in the numeric methodology.

In its public comments and rebuttal, Rockwood Health System questioned whether the 2012 utilization data for the two Providence hospitals--Holy Family and Sacred Heart--was correct. Rockwood Health System stated that the 2012 utilization data was inconsistent with data reported to HPDS for the same time frame. PHS-W asserted in its rebuttal that the data was correct and should be used in the numeric methodology.

Since both PHS-W and Rockwood Health System firmly stand by their 2012 utilization data provided in their surveys, the department will use the survey data in the numeric methodology for all four hospitals, rather than relying on HPDS quarterly data.

Valley Hospital's utilization survey identified six ORs used for either outpatient or inpatient services and two ORs dedicated to endoscopy procedures. Both PHS-W and Rockwood Clinic agreed that all eight ORs should be included in Valley Hospital's OR capacity. WAC 246-310-270(9)(iv) requires the department to exclude OR capacity and procedures for dedicated ORs used for cystoscopic and other dedicated services, such as open heart surgery. Endoscopy services and dedicated rooms are part of this exclusion from the numeric methodology.<sup>11</sup> Even though both PHS-W and Rockwood Clinic included them in the count of five dedicated outpatient ORs, the department will exclude these two ORs in its numeric methodology. Exclusion of the dedicated endoscopy ORs at Valley Hospital results in six ORs to be counted in the methodology for Valley Hospital.

Both PHS-W and Rockwood Clinic excluded the two ORs at Shriners' Hospital for Children in the count of hospital OR capacity. As previously stated, these two ORs should be included in the existing OR capacity.

The final count of hospital ORs to be used in the department's methodology is summarized below.

<b>Hospital</b>	<b># of ORs</b>
Deaconess Medical Center	18
Providence Holy Family	11
Providence Sacred Heart	34
Valley Hospital & Medical Center	6
Shriners' Hospital for Children	2
<b>Total OR Count</b>	<b>71</b>

There are 24 ASCs located in the Spokane County planning area. Of the 24 ASCs, three are endoscopy facilities. The numeric methodology deliberately excludes from the numeric methodology the OR capacity and procedures used for endoscopy. Neither PHS-W nor Rockwood Health System disputed the exclusion of these three facilities.

For the remaining, 21 ASCs—20 are located within a solo or group practice (considered an exempt ASC) and the use of these ASCs is restricted to physicians that are employees or members of the clinical practices that operate the facilities. Therefore, these 20 facilities do not meet the ASC definition in WAC 246-310-010. For exempt ASCs, the utilization [cases], but not ORs, is included in the methodology for the planning area. Fifteen of the ASC's provided a completed utilization survey with 2012 data. The number of cases identified in the survey will be used in the methodology. Year 2011 ILRS data was available and will be used for the remaining six ASCs.

Within its public comments, Rockwood Health System disputed some of the data PHS-W used for these ASCs. The comparison table below shows the differences in the number of outpatient cases counted in the two methodologies. [source: Rockwood Health System public comment, p8 and Application, Exhibit 10]

<b>Methodology</b>	<b># of Cases Provided By ASCs</b>
Applicant	32,329
Rockwood Health System	29,079

<sup>11</sup> WAC 246-310-270(9)(iv).

As shown above, PHS-W's number of cases is approximately 3,200 more than Rockwood Health System's count. This difference would affect the use rate calculated in the numeric methodology. Since PHS-W did not provide a breakdown of outpatient cases by facility, including CN exempt ASCs, both Rockwood and the department are unable to pinpoint the reason for the 3,200 case difference. Since the case numbers provided by the applicant and affected person are different and the department is unable to independently review the difference, the department will rely on its own count of outpatient cases performed in ASCs in the Spokane County planning area. The department's methodology identified 29,049 outpatient cases.

There is one CN approved ASC in Spokane County. Rockwood Eye Surgery is owned by the Rockwood Health System and the ASC is limited to eye related surgeries.<sup>12</sup> There are 3 ORs at this ASC. The OR capacity and utilization for Rockwood Eye Surgery is counted in the numeric methodology. Neither PHS-W nor Rockwood Health System disputed the data used for the ASC.

In summary, the data points used in the department's numeric methodology are identified below. The methodology and supporting data used by the department is provided in Appendix B attached to this evaluation.

**Table 1  
Department's Numeric Methodology Assumptions and Data Used**

<b>Data Points</b>	<b>Data Used</b>
Planning Area	Spokane County
Population Estimates and Forecasts	Office of Financial Management Population data released May 2012: Year 2012 – 475,600 Year 2017 – 498,867
2012 Total Planning Area Surgical Cases	Based on DOH survey and ILRS data Outpatient cases = 29,049 Inpatient cases = 46,607
Use Rate	Divide calculated surgical cases by 2012 population results in the service area use rate of 159.075/1,000 population
Percent of surgery ambulatory vs inpatient	Based on DOH survey and ILRS data: 38.40% ambulatory (outpatient) and 61.60% inpatient
Average minutes per case	Based on DOH survey and ILRS data: Outpatient cases = 48.99 minutes Inpatient cases = 104.64 minutes
OR annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed use surgery minutes (per methodology in rule)
Existing providers/ORs	Based on listing of Spokane County providers. 3 dedicated outpatient ORs and 71 mixed use ORs
<b>Methodology Results</b>	<b>Surplus of 3.08 outpatient ORs</b>

<sup>12</sup> On November 10, 2005, CN #1320 was issued to Eye Surgery Center Northwest, LLC. On July 1, 2012, the practice and ASC was purchased by Rockwood Clinic, and was renamed Rockwood Eye Surgery Center. The purchase did not change the number of ORs or increase the scope of services provided at the ASC. [source: CN historical files]

In summary, the department's methodology shows a surplus of 3.08 ORs. The methodology, by itself, does not project need for additional ORs in the Spokane County planning area.

Rockwood Health System's comments focused on the numeric methodology and concluded that since no numeric need could be demonstrated, the project should be denied.

In addition to the need methodology discussed above, PHS-W also provided the following statements to demonstrate need for additional OR capacity in Spokane County. [source: Application, pp17- 19]

- Spokane County's population growth has been steady for years 2000 through 2010.
- The 65+ age group is the most frequent users of health care services. This population is forecasted to grow 3.3% annually through year 2015 and 4.0% annually through year 2020.
- The county continues to show a significant shift of surgeries from inpatient to outpatient settings. This is evidenced by the total number of inpatient surgery growth of 1.4% annually between years 2010 and 2012; while the outpatient surgery growth was 7.9% for the same time frame.

WAC 246-310-270(4) provides the following guidance related to the numeric methodology.

*"Outpatient operating rooms should ordinarily not be approved in planning areas where the total number of operating rooms available for both inpatient and outpatient surgery exceeds the area need."*

Rockwood Health Systems states this project should be denied under this criteria because 1) PHS-W could not demonstrate numeric need under the methodology; and 2) PHS-W did not provide documentation specific to WAC 245-310-270(4) referenced above.

During the review of this project, the department received 46 letters of support for the project. The letters of support were provided by Spokane County physicians, healthcare facilities, health districts, educational institutions, area businesses, state senators, and state representatives.

Letters from physicians and healthcare facilities stated that there are no outpatient ORs available in the Spokane Valley area and access to these ORs would benefit both physicians and patients. Health districts and educational institutions indicated that the ASC would offer a more coordinated and affordable healthcare to the residents of the Spokane Valley area. Area businesses, state senators, and state representatives recognized significant growth in the Spokane Valley community and viewed services to be provided by the Providence Medical Park and ASC as essential health services to be located closer to the residents of the community.

### **Department Review**

The methodology provided by the applicant applied a higher use rate and resulted in need for an additional 19 ORs in the planning area. PHS-W did not provide additional information specific to WAC 246-310-270(4) because the applicant believed numeric need had been demonstrated.

PHS-W provided documentation related to population growth in the county. Spokane County is ranked fourth in population for all 39 counties in the state. Only King, Pierce, and Snohomish—all western Washington counties—have a larger population than Spokane. [source: US Department of Commerce website at <http://quickfacts.census.gov>] Further, as the fourth largest county in the state, Spokane County has only one CN approved ASC. Rockwood Eye Surgery has the only three dedicated outpatient ORs in the planning area, and the ASC is limited to providing only eye related surgeries.

PHS-W also provided documentation to demonstrate the increase of ambulatory surgery use in the United States since early 1980s. The data was collected through the 2006 National Survey of Ambulatory Surgery by the Centers for Disease Control and Prevention's National Center for Health Statistics. The survey was conducted from 1994-1996, and again in 2006. The data shows a comparison between ambulatory surgery and hospital inpatient related to number of visits and surgical minutes. [source: Application, Exhibit 11]

Rockwood Health System did not dispute the population and growth data provided by PHS-W under this criterion. Rockwood Health System also did not dispute conclusions within the data referenced above. Rather Rockwood Health System's comments were focused on the numeric methodology. The letters of support provided during this review all identified the same theme:

- Spokane County is a large county experiencing steady growth.
- Spokane Valley is a fast growing community with many residents and healthcare facilities.
- There is no CN approved outpatient ASC in the entire county that can provide healthcare services outside of eye related surgery.

PHS-W intends to license the ASC under Revised Code of Washington (RCW) 70.230, rather than under any of the hospitals within the Providence Health System. As a freestanding ASC, PHS-W would be precluded from including a hospital facility fee in its patient billing. As a result, PHS-W would be reimbursed at the ambulatory surgery rates, rather than hospital outpatient department rates. This action could reduce the overall costs of healthcare to the community. This conclusion is supported by a cost comparison review between ambulatory surgery and hospital outpatient department 2014 CMS rates. Using the CPT codes provided by Rockwood Health System to support its position that the procedures proposed to be provided by PHS-W in its 'procedure rooms' were surgical procedures, the comparison showed that ambulatory surgery reimbursement rates are lower, and in some cases, significantly lower, than hospital outpatient department reimbursement rates. [source: 2014 Proposed ASC Rates Compared to HOPD Rates published by the Ambulatory Surgery Center Association headquartered in Alexandria, Virginia]

#### WAC 246-310-270(6)

WAC 246-310-270(6) requires a minimum of two ORs in an ASC. PHS-W intends to construct, equip, and operate four ORs, which would meet this standard. [source: Application, p13]

In summary, based on the lack of Certificate of Need approved, non-hospital operating rooms in the planning area, PHS-W's rationale for submitting this project, letters of support, and the applicant's ability to meet the standard related to the minimum number of ORs, need for additional OR capacity for Spokane County has been demonstrated. **This sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

Even though PHS-W has been providing healthcare services for many years through its medical clinics and hospitals, for CN purposes, the ASC is a new healthcare facility. As a CN approved ASC, PHS-W must demonstrate that it would be available to all residents of the planning area, including low income, racial and ethnic minorities, handicapped, and other underserved groups. The ASC must also participate in the Medicare and Medicaid programs and commit to providing a percentage of charity care in the planning area.

### Admission Policy and Non-Discrimination Policy

To determine whether all residents of the planning area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, PHS-W provided copies of the Admission Policy and the Non-Discrimination Policy to be used at the ASC. The Admission Policy was created specifically for this project and is in draft format. The policy includes specific language to ensure that the ASC will not exclude, or deny services to, any person based on race, color, national origin, disability, or age at admission. [source: February 20, 2014, supplemental information, Appendix C]

The Non-Discrimination Policy provided in the application is also in draft format and, again, includes specific language to ensure that the ASC will not exclude, or deny services to, any person based on race, color, national origin, disability, or age at admission. [source: February 20, 2014, supplemental information, Appendix B]

### Medicare and Medicaid Programs

The department uses Medicare certification to determine whether the elderly would have access, or continue to have access, to services. PHS-W currently contracts with Medicare and provides services to Medicare patients in the planning area through its hospitals.

To demonstrate compliance with this sub-criterion, PHS-W stated that the ASC would contract with Medicare, and if this project is approved, would begin the process to obtain its Medicare provider number. Financial documents provided in the application demonstrate that PHS-W intends to provide services to the Medicare population at the ASC. PHS-W expects 23.7% of its gross revenues to be from Medicare. [source: Application, p14 and Exhibit 16]

The department uses the facility's Medicaid certification to determine whether low-income residents would have access, or continue to have access, to services. PHS-W also contracts with Medicaid and provides services to Medicaid patients in the planning area through its hospitals

To demonstrate compliance with this sub-criterion, PHS-W stated that the ASC would contract with Medicaid, and if this project is approved, would begin the process to obtain its Medicaid contract with the Department of Social and Health Services (DSHS). Financial documents provided in the application demonstrate that PHS-W intends to provide services to the Medicaid population at the ASC. Medicaid revenues are expected to be 27.3% of the gross revenues. [source: Application, p14 and Exhibit 16]

To ensure that PHS-W would participate in both the Medicare and Medicaid programs, if this project is approved, the department would attach two conditions related to this sub-criterion. One condition would require PHS-W to provide documentation that the ASC obtained its Medicare and Medicaid provider numbers within a specific timeframe. Another condition would require the ASC to maintain Medicare and Medicaid certification throughout operation of the facility, regardless of ownership.

Charity Care Policy

A facility’s charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

To demonstrate compliance with this sub-criterion, PHS-W provided a draft charity care policy to be used at the ASC. The policy includes the appropriate non-discrimination language as required and outlines the process one must use to obtain charity care at the ASC. The pro forma financial documents provided in the application also include a charity care ‘line item.’ [source: February 20, 2014, supplemental information, Appendix D]

WAC 246-310-270(7)

WAC 246-310-270(7) requires that ASCs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed ASC. For charity care reporting purposes, HPDS, divides Washington State into five regions: King County, Puget Sound, Southwest, Central, and Eastern. PHS-W’s ASC would be located in Spokane County, within the Eastern Region. Currently, there are 20 hospitals operating, or approved to operate, in the region. Of those, six are acute care hospitals located in the county and four of the six could be affected by approval of this project.<sup>13</sup>

For this project, the department reviewed the most recent three years of charity care data for the 20 existing hospitals currently operating within the Eastern Region and focused on the four general acute care hospitals located in the Spokane County. The three years reviewed are 2009, 2010, and 2011.<sup>14</sup> The table below is a comparison of the average charity care for the Eastern Region as a whole, combined charity care percentages for the four hospitals in Spokane County, and PHS-W's projected charity care for the ASC. [source: 2009-2011 HPDS charity care summaries]

**Table 5  
Charity Care Percentage Comparisons**

	<b>% of Total Revenue</b>	<b>% of Adjusted Revenue</b>
Eastern Region	2.02%	5.06%
Four Hospital's Combined	1.94%	4.92%
PHS-W Projected	4.42%	9.01%

As shown in the table above, the regional average is higher than the calculated average provided by the four hospitals in the planning area. PHS-W proposes to provide a higher gross and adjusted percentage of charity care than both the region and the combined hospitals.

Since PHS-W’s ASC would be a new ASC in the planning area, to ensure that appropriate charity care percentages would be provided at the ASC, if this project is approved, the department would attach a condition requiring PHS-W to provide charity care at certain percentages at the ASC.

<sup>13</sup> St. Luke’s Rehabilitation Institute is an acute care hospital dedicated to rehabilitation services only. Shriner’s Hospital for Children is also an acute care hospital. It provides care to children for orthopedic and neuromusculoskeletal conditions. Shriner’s Hospital for Children also provides a substantial amount of free services to children. Neither of these two hospitals would be affected by approval of this project.

<sup>14</sup> As of the writing of this evaluation, years 2012 and 2013 charity care data is not available.

There was no public comment submitted related to this sub-criterion. With the conditions described above, the department concludes that all residents of the service area would have access to the proposed ASC. **This sub-criterion is met.**

## **B. Financial Feasibility (WAC 246-310-220)**

Based on the source information reviewed and the applicant's agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Providence Health Services-Washington has met the applicable financial feasibility criteria in WAC 246-310-220.

### *(1) The immediate and long-range capital and operating costs of the project can be met.*

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

To evaluate this sub-criterion, the department first reviewed the assumptions used by PHS-W to determine the projected number of surgical cases for the planning area and the proposed ASC's market share of the projected cases. The assumptions used by PHS-W are summarized below. [source: Application, pp24-27]

- The types of procedures were identified by ICD-9 procedure codes derived from the latest National Center for Health Statistics survey study: Ambulatory Surgery in the United States.<sup>15</sup>
- Procedures include operations on the nervous system, endocrine system, ear/nose/mouth/pharynx, respiratory system, cardiovascular system, digestive system, urinary system, male and female genital organs, musculoskeletal system, and intergumentary system. Also included are miscellaneous diagnostic and therapeutic procedures.
- Use rates derived from the National Center for Health Statistics survey were multiplied by the 2014-2018 planning area populations, and then divided by 10,000 to project total number of procedures for the Spokane County planning area, broken down by procedure.
- Some procedures would not be performed at the ASC, such as eye operations. These procedures were excluded from the projections.
- For operations on the digestive system, PHS-W assumed approximately 50% of the procedures would be performed in procedure rooms, rather than ORs. Therefore, only 50% of the projected market share is included in the ASC projections.
- For operations on the nervous system, PHS-W assumed a large number of procedures would be pain injections that would be performed in a procedure room, rather than an OR.
- The proposed ASC's market share percentages by procedure was calculated based on current and planned surgeries, and taking into account any physician recruitment actions and expressed interests from other area physicians who would use the ASC if available. Projected market shares by year are shown on the following page.

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<sup>15</sup> Number 11, January 28, 2009-Revised September 4, 2009.

	2014	2015	2016	2017	2018
ASC's Percentage of Market Share	2.7%	5.4%	6.0%	6.5%	6.7%

Using the assumptions stated above, PHS-W projected number of surgical cases, by type, for the ASC. The projections are shown in the table below. [source: Application, p27]

**Table 6**  
**Ambulatory Surgery Center**  
**Projected Number of Procedures-Years 2014 through 2018**

	2014	2015	2016	2017	2018
Nervous System	97	197	223	243	252
Endocrine System	18	36	41	45	47
Ear/Nose/Mouth/Pharynx	261	530	600	654	681
Respiratory System	39	79	89	97	101
Cardiovascular System	115	234	264	288	300
Digestive System	446	905	1,023	1,116	1,161
Urinary System	110	223	252	275	286
Male and Female Genital	166	334	377	412	427
Musculoskeletal System	462	939	1,062	1,158	1,204
Integumentary System	326	661	748	816	848
Miscellaneous Diagnostic/Therapeutic	213	433	489	534	555
<b>Total Cases for ASC</b>	<b>2,253</b>	<b>4,571</b>	<b>5,168</b>	<b>5,638</b>	<b>5,862</b>

As noted in the table above, the number of cases in year 2015 is more than double those projected for year 2014. PHS-W expects this significant increase in cases based on two factors: 1) Year 2014 is only nine months of operation, while 2015 is a full 12 months; and 2) as a new ASC, market share percentages by procedure begin with small values, with modest growth in subsequent years. [source: Application, p26] After reviewing the assumptions and projections stated above, the department concludes they are reasonable.

PHS-W also provided its assumptions used to project revenue, expenses, and net income for the ASC. [source: Application, pp34-35] Those assumptions are summarized below.

- Revenues were calculated using quantity-weighted average revenue figures from the 2012 ASC eligible cases at Providence's two acute care hospitals located in Spokane County— Sacred Heart Medical Center and Children's Hospital and Holy Family Hospital.
- For the ICD-9 procedures, a single procedure was selected as representative for each of the groups. For example, for the 'operations on the nervous system' ICD-9 code, 'carpal tunnel release' was selected as representative of this group.<sup>16</sup>
- Payer percentages were multiplied by ASC volumes for each of the procedure groups to estimate forecast volumes by payer.
- Based on 2012 data from Sacred Heart Medical Center and Children's Hospital and Holy Family Hospital and specific to each of the procedures, payer-specific volume, gross revenues, and net revenues were calculated.

<sup>16</sup> The 'representative' procedure for each ICD-9 procedure code was provided on page 34 of the application.

- Adjusted gross and net revenue figures were then converted to 'freestanding ASC' revenues by adjusting the rates down by 40%. This percentage was based on the Intellimarker 2010 ASC Financial and Operational Benchmarking Study from VMG Health published November 2011.
- The adjusted gross and net revenue figures were converted to a per procedure basis, by payer, then multiplied by procedure volumes by payer, for each year of the forecast years, resulting in total and net revenue projections.
- Inflation was excluded from the projections models.
- All revenue deductions were calculated using gross patient revenue. Contractual allowances at 59.6% of gross patient revenue; bad debt at 5%; and charity care at 4.4% .
- Generally, expenses were estimated as a percent of net revenue using Providence's year-to-date 2013 actual outpatient data for similar department and cost structures.
- The number of FTEs by type was determined based on forecast volumes and ORs that would be used.
- Staff wages, salaries, and benefits were modeled based on Providence's year-to-date 2013 actual data for each type of FTE.
- Wages, salaries, and benefits for non-management staff reflect a start date two weeks prior to the opening of the ASC to allow for training and unit simulation.
- Wages, salaries and benefits for the ASC manager reflect a start date of January 1, 2014, to allow for management training, staff recruitment, and workflow process development.
- Inflation was included in the wages and salaries only.
- Allocated costs are included in the financial statements based on System and Regional standards for Providence. These are calculated at 5.1% for IT and management services; 1.6% for purchasing, HR, and local and regional management fees.
- All repair and maintenance is estimated at 15% of the cost of the equipment.
- Annual depreciation expenses include approximately \$626,934 for plant and equipment.

Using the assumptions stated above, PHS-W projected revenue, expenses, and net income for the ASC. It is noted that all financial statements assumed the ASC would become operational as an exempt facility on April 1 2014. As a result, year 2014 is nine months of operation. Year 2015 is a full calendar year of operation and year 2017 is year three. The projections are shown in the table below. [source: Application, Exhibit 16]

**Table 7**  
**Ambulatory Surgery Center**  
**Projected Years 2014 through 2018**

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Net Revenue	\$ 6,465,700	\$ 12,558,161	\$ 14,753,793	\$ 15,758,316	\$ 16,242,684
Total Expenses	\$ 6,990,075	\$ 10,790,444	\$ 12,327,891	\$ 12,927,525	\$ 13,280,650
Net Profit / (Loss)	(\$ 524,375)	\$ 1,767,717	\$ 2,425,902	\$ 2,830,791	\$ 2,962,034

The 'Net Revenue' line item is gross patient revenue, minus any deductions from revenue for contractual allowances and charity care. The 'Total Expenses' line item includes salaries and wages and all costs associated with operations of an ASC. The 'Total Expense' line item also includes allocated costs, leases, depreciation of building and equipment, repair and maintenance, and bad debt. [source: January 17, 2014, supplemental information, p4]

As shown above, PHS-W projected a net loss in year 2014, with nine months of operation. For full years 2015 through 2018 (year 4), a net profit is projected.

The ASC would be located in a large medical complex known as Providence Medical Park. Since the site is owned by Providence, no lease costs are included in the expenses. Allocated costs include the ASC's portion of the building, utilities, and common equipment and areas. Since the medical director for the ASC is an employee of PHS-W, no medical director contract will be established. PHS-W provided a job description for the medical director, which includes roles and responsibilities for both PHS-W and the medical director. [source: February 20, 2014, supplemental information, Appendix A]

For operational purposes, the balance sheets for the ASC are combined with the medical park. However, for this review, PHS-W created projected balance sheets specific to the ASC. Below is a summary of the balance sheets showing year one [2015] and year three [2017]. [source: January 17, 2014, supplemental information, Appendix A]

**Tables 8**  
**Providence Health & Services-Washington**  
**Balance Sheet for ASC Only**  
**Projected Year One 2015**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$ 0	Current Liabilities	\$ 52,000
Fixed Assets	\$ 8,441,000	Other Liabilities	\$ 1,071,000
Accumulated Depreciation	(\$ 829,000)	Long Term Debt	\$ 5,282,000
Other Assets	\$ 36,000	<b>Equity</b>	<b>\$ 1,243,000</b>
<b>Total Assets</b>	<b>\$ 7,648,000</b>	<b>Total Liabilities and Equity</b>	<b>\$ 7,648,000</b>

**Projected Year Three – 2017**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$ 4,911,000	Current Liabilities	\$ 58,000
Fixed Assets	\$ 8,441,000	Other Liabilities	\$ 0
Accumulated Depreciation	(\$ 1,658,000)	Long Term Debt	\$ 5,170,000
Other Assets	\$ 34,000	<b>Equity</b>	<b>\$ 6,500,000</b>
<b>Total Assets</b>	<b>\$ 11,728,000</b>	<b>Total Liabilities and Equity</b>	<b>\$ 11,728,000</b>

The balance sheets above show that the ASC would be operating with little liabilities. This is typical of ASC operations that have been reviewed by the department. The balance sheets above show that the ASC would be financially stable through full calendar year 2016.

There was no public comment submitted related to this sub-criterion. Based on the source documents evaluated, the department concludes that the projected revenues and expenses at the proposed ASC are reasonable and can be substantiated for this application. The department concludes that the immediate and long-range operating costs of the project can be met. **This sub-criterion is met.**

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a

project of this type and size. Therefore, using its experience and expertise the department compared the proposed project's costs with those previously considered by the department.

As previously discussed, the proposed ASC would be located within a larger building known as the Providence Medical Park, and the ASC would be housed in approximately 10% of the building. Groundbreaking for this building occurred in September 2012. Costs for the entire building, including land acquisition, construction, and equipment is approximately \$44,000,000 and 20% of the total costs, \$8,441,110, are allocated to the ASC. Of the \$8,441,110, approximately 42% is associated with moveable equipment; 39% is associated with construction costs and fixed equipment; and the remaining 19% is for land purchase and improvements; fees, taxes, and interim interest. [source: Application, p33]

To determine a projected payer mix for the ASC, PHS-W reviewed the most recent [2012] full year payer mix at both Sacred Heart Medical Center & Children's Hospital and Holy Family Hospital, focusing on the categories of ASC-eligible procedures planned for the ASC. The projected payer mix is shown in the table below. [source: Application, p14]

**Table 9  
Projected Payer Mix**

Payer Source	Percentage
Medicare	23.7%
Medicaid	27.3%
Commercial	35.1%
Other Insurance <sup>17</sup>	13.9%
<b>Total</b>	<b>100.0%</b>

Table 9 above demonstrates that Medicare and Medicaid patients would be treated at the ASC and make up 51% of the payer source. Commercial insurers make up approximately 35% and considering some of the types of procedures to be provided at the ASC, a significant percentage of commercial payer source is expected.

There was no public comment submitted related to this sub-criterion. Based on the source documents evaluated, the department concludes that the costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services. **This sub-criterion is met.**

(3) *The project can be appropriately financed.*

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

Costs for the entire building, including land acquisition, construction, and equipment is approximately \$44,000,000 and 20% of the total costs, \$8,441,110, are allocated to the ASC. Of the \$8,441,110, approximately 42% is associated with moveable equipment; 39% is associated with construction costs

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<sup>17</sup> 'Other' payers include self-pay and other government payers.

and fixed equipment; and the remaining 19% is for land purchase and improvements; fees, taxes, and interim interest. The table below shows the capital expenditure breakdown for the ASC portion of the project. [source: Application, p33]

**Table 10**  
**PHS-W ASC Capital Expenditure Breakdown**

Item	Cost	% of Total
Land Purchase	\$ 453,440	5.4%
Land Improvements	\$ 101,768	1.2%
Construction Costs/Fixed Equipment	\$ 3,287,427	39.0%
Moveable Equipment/Delivery Costs	\$ 3,626,348	43.0%
Fees <sup>18</sup>	\$ 222,580	2.6%
Sales Tax	\$ 623,029	7.4%
Interim Interest	\$ 126,518	1.5%
<b>Total Project Cost</b>	<b>\$ 8,441,110</b>	<b>100.0%</b>

In 2012, PHS-W purchased the land for the larger project, which includes the ASC, using unrestricted cash reserves. The remaining costs for the ASC, approximately \$7,987,670, were financed through taxable bonds in 2012. The taxable bonds were approved using a multi-step process that includes both internal and external approval. The internal approvals were secured on February 27, 2012 and March 12, 2012. The bond indenture<sup>19</sup> date was July 1, 2012; the bond was issued on July 19, 2012. [source: Application, p15, and January 17, 2014, supplemental information, p2]

Within this application, PHS-W provided its debt amortization repayment schedule for the ASC portion of the debt. The repayment schedule began in July 2012 and continues for 30 years, through year 2042. [source: Application, Exhibit 17]

PHS-W also provided copies of its consolidated financial statements, including the independent auditors' report, for years 2010, 2011, and 2012. [source: Application, Exhibit 18]

There was no public comment submitted related to this sub-criterion. Since the land purchase and the bond indenture were completed in year 2012, all pertinent financial information related to the two transactions are included in the consolidated financial statements. After reviewing the historical statements, the department concludes that PHS-W had adequate funds to cover this project. The capital expenditure of \$8,441,110 is not expected to adversely impact reserves, total assets, total liability, or the general health of PHS-W in a significant way.

Based on the source documents evaluated, the department concludes that the project can be appropriately financed. **This sub-criterion is met.**

<sup>18</sup> The 'fees' category include architect, engineering, title, brokerage/commission, and any legal fees.

<sup>19</sup> An 'indenture' is a legal contract reflecting a debt or purchase obligation. Specific to this project, the indenture is between the bond issuer and the bondholder. The indenture specifies all the important features of a bond, such as its maturity date, timing of interest payments, method of interest calculation, callable/convertible features if applicable and so on. The indenture also contains all the terms and conditions applicable to the bond issue. Other critical information included in the indenture are the financial covenants that govern the issuer and the formulas for calculating whether the issuer is within the covenants. [source [www.investopedia.com](http://www.investopedia.com)]

**C. Structure and Process (Quality) of Care (WAC 246-310-230)**

Based on the source information reviewed and the applicant’s agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Providence Health Services-Washington has met the applicable structure and process of care criteria in WAC 246-310-230.

*(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.*

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

The department recognizes that PHS-W expected the ASC to become operational as an exempt facility by the end of April 2014. With February 25, 2014, release of the health law judge order, PHS-W cannot operate the ASC under an exemption before the decision for this project is released. Even with the timeline change, the ASC could become operational by end of November 2014. Under this timeline, year 2015 would be the ASC’s first full calendar year of operation and 2017 would be year three.

To demonstrate compliance with this sub-criterion, PHS-W provided its projected number of FTEs [full-time equivalents] for the ASC. PHS-W expects to recruit the majority of the FTEs in year 2014, and increase staff consistent with the projected increase in utilization. A breakdown of FTEs is shown in the table below. [source: Application, p37]

**Table 11  
PHS-W ASC  
2014 – 2017 Projected FTEs**

<b>Staff/FTEs</b>	<b>Partial Year 2014</b>	<b>Year 2015 Increase</b>	<b>Year 2016 Increase</b>	<b>Year 2017 Increase</b>	<b>Total FTEs</b>
Office/Clerical	2.20	0.00	0.00	0.00	2.20
Scheduler	1.10	0.00	0.00	0.00	1.10
OR Prep/Clean	1.10	0.00	1.10	0.00	2.20
Registered Nurses	15.60	3.30	3.30	0.00	22.20
OR Techs	7.20	1.10	1.10	0.00	9.40
Manager	1.00	0.00	0.00	0.00	1.00
<b>Total FTE’s</b>	<b>28.20</b>	<b>4.40</b>	<b>5.50</b>	<b>0.00</b>	<b>38.10</b>

PHS-W states it has a very large presence in the county and employs a large number of general and specialty care providers. Because of its presence, PHS-W states it has the ability to ‘float’ selected administrative, clerical, and technical staff to the ASC as needed. The ASC would also offer an attractive work environment and hours, thus attracting local, qualified candidates for employment. [source: Application, p38]

There was no public comment submitted related to this sub-criterion. Based on the source documents evaluated, the department concludes adequate and qualified staffing for the ASC is available or can be recruited. **This sub criterion is met.**

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

As an existing provider of healthcare services in the county, PHS-W already maintains appropriate relationships with ancillary and support services for its healthcare facilities, including both hospitals. Since the ASC would be located on the second floor of the Providence Medical Park office building, patients would have access to an urgent care center, primary and specialty care physician office, imaging center, laboratory services, and an outpatient pharmacy. Other onsite services include scheduling, security, housekeeping, physical plant maintenance, parking attendance, and materials management. Some of the services would be purchased by local vendors, others would be provided by PHS-W. [source: Application, p38]

Following project approval, PHS-W would begin the recruitment and selection process to identify a medical director for the ASC. Since the medical director would be an employee of PHS-W, a medical director contract would not be established. PHS-W provided a copy of the job description which included roles and responsibilities of the medical director and PHS-W. [source: February 20, 2014, supplemental information, p3 and Appendix A]

If this project is approved, the department would attach a condition requiring PHS-W to provide the department with a listing of key staff for the hospital. Key staff includes all credentialed or licensed management staff, including the director of nursing and medical director.

There was no public comment submitted related to this sub-criterion. Provided PHS-W agrees with the conditions regarding the medical director, the department would conclude that adequate ancillary and support services are available for the ASC. **This sub criterion is met.**

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

PHS-W is a long-time provider of healthcare services in Washington State. Focusing on hospitals, PHS-W owns or manages a total of 26 acute care or critical access hospitals in Alaska (4), California (5), Montana (2), Oregon (7) and Washington (8). [source: February 24, 2014, supplemental information, pp2-3]

As part of this review, the department must conclude that the proposed services provided by PHS-W at the ASC would be provided in a manner that ensures safe and adequate care to the public.<sup>20</sup> To

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<sup>20</sup> WAC 246-310-230(5).

accomplish this task, the department reviewed the quality of care compliance history for all healthcare facilities either owned, operated, or managed by PHS-W. Using the Joint Commission<sup>21</sup> website, the department obtained data on 24 of the 26 facilities. Two hospitals in Alaska—Valdez Medical Center and Seward Medical and Care Center—are managed by PHS-W and are not accredited by the Joint Commission.

Of the 24 hospitals with Joint Commission accreditation, most of them received a score demonstrating performance similar to, or above, the target range/value. Many of the facilities were provided ‘special quality awards in certain areas of healthcare, such as ‘Medal of Honor for Organ Donation,’ the Magnet Award<sup>22</sup>, ‘Silver Medal’ related to stroke care, or ‘American College of Surgeons Bariatric Surgery Center Network Accreditation.’

Specific to Washington State, in addition to the Joint Commission recognitions referenced above, two of the rural hospitals also achieved special Joint Commission recognition. Centralia Hospital in Lewis County received special quality awards in years 2010 and 2011 and St. Mary Medical Center in Walla Walla County received a special quality award in 2012.

Given the compliance history of the majority of the health care facilities owned, operated, or managed by PHS-W or one of its subsidiaries, there is reasonable assurance that the ASC would be operated and managed in conformance with applicable state and federal licensing and certification requirements.

There was no public comment submitted related to this sub-criterion. Based on the above information and provided that PHS-W agrees to the conditions regarding key staff, including the medical director, the department concludes that PHS-W demonstrated reasonable assurance that the ASC would be operated in compliance with state and federal requirements. This sub criterion is met.

(4) The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

In response to this criterion, PHS-W asserts the project promotes continuity of care in a number of ways. First, the ASC would be another component of the Providence Medical Park, which includes urgent care,

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<sup>21</sup> The Joint Commission accredits and certifies more than 20,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards. Joint Commission accreditation is awarded to a health care organization that is in compliance with all standards at the time of the onsite survey or has successfully addressed requirements for improvement in an Evidence of Standards Compliance within 45 or 60 days following the posting of the Accreditation Summary Findings Report. [source: Joint Commission website]

<sup>22</sup> The Magnet Award is a recognition program operated by the American Nurses Credentialing Center that recognizes healthcare organizations that provide excellence in nursing. The award recognizes health care organizations exhibiting excellence in nursing services to patients, the existence of an environment that supports professional nursing practice and growth and development of nursing staff. Magnet institutions act as "magnets" by attracting and retaining outstanding nurses and creating a work environment that recognizes and rewards professional nursing. [source: Joint Commission website]

primary and specialty care physician office, imaging center, laboratory, and an outpatient pharmacy. PHS-W states that the addition of an ASC at this site would reduce patient travel time and costs. Additionally, PHS-W is committed to coordinating care through its electron health record system. All Providence facilities, whether owned or managed by Providence, share the common electronic medical records system. This electronic system allows for expedient communication of relevant medical information among providers and allows for coordination of care and clinical outcomes. [source: Application, pp38-39]

There was no public comment submitted related to this sub-criterion. Based on this information, the department concludes that approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, PHS-W demonstrated the ASC would have appropriate relationships to the service area's existing health care system within the planning area. **This sub-criterion is met.**

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

This sub-criterion is addressed in sub-section (3) above and is **considered met.**

#### **D. Cost Containment (WAC 246-310-240)**

Based on the source information reviewed and the applicant's agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Providence Health Services-Washington has met the applicable cost containment criteria in WAC 246-310-240.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, the department then assesses the other options considered by the applicant. If the department determines the proposed project is better or equal to other options considered by the applicant and the department has not identified any other better options this criterion is determined to be met unless there are multiple applications.

If there are multiple applications, the department's assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type. The superiority criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility type superiority criteria as directed by WAC 246-310-200(2) (a)(i), then the department would use WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

This application is not competing with any other applications. For this project, PHS-W met the applicable review criteria under WAC 246-310-210, 220, and 230.

Before submitting this application, PHS-W pursued the option of establishing an exempt ASC. As stated in the background description in this evaluation, on March 26, 2013, the Certificate of Need Program approved the exemption which allowed establishment of an ambulatory surgery center [ASC] in Spokane County without undergoing prior Certificate of Need review. Once the health law judge overturned the program's exemption approval, this option was no longer available to PHS-W.

The two other options considered and rejected by PHS-W are discussed below. [source: Application, pp40-41]

#### Do Nothing

This option would mean that additional outpatient OR capacity would not be added to the county. After reviewing inpatient and outpatient surgery data, PHS-W concluded that the planning area had too few dedicated outpatient ORs, resulting in underserved residents. PHS-W rejected this option because it does not improve the shortage of outpatient ORs in the county and restricts needed healthcare services for residents of the planning area.

#### Expand hospital- based OR capacity at a site off campus

While this option would address the shortage of outpatient ORs in the planning area, it was viewed by PHS-W as an expensive venture. The facility would be licensed under the hospital license, and therefore, must be built in compliance with hospital licensure codes. Hospital-based outpatient departments, whether on or off the hospital campus, are typically more costly and less efficient than freestanding ASC. For these reasons, this option was also rejected.

#### Department's Review

Once PHS-W concluded that it wanted to establish an ASC, the only two options available were: 1) establish an exempt ASC; or 2) establish a CN approved ASC. PHS-W pursued the exemption route, and once the exemption was overturned by the health law judge, the other option was the only one available. Even if PHS-W had elected to expand hospital-based OR capacity off of the hospital campus, a CN would be required. No other options were identified by the department.

No public comments were submitted for this sub-criterion. Based on the requirement of PHS-W to submit an application to establish an ASC, the department concludes that that this option was its only alternative.

Further, the department concluded that need for the project had been demonstrated. This conclusion was based, in part, on the applicant's assertion that the surgery center would be licensed as a freestanding facility, rather than under any of the hospitals within the Providence Health System. The department concludes that the addition of ORs in a freestanding surgery center could increase community access to lower cost outpatient surgery services in the planning area. **This sub-criterion is met.**

#### *(2) In the case of a project involving construction:*

##### *(a) The costs, scope, and methods of construction and energy conservation are reasonable; and*

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion **is met.**

##### *(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.*

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2) and **is met**.

(3) *The project will involve appropriate improvements or innovations in the financing and delivery of health services which foster cost containment and which promote quality assurance and cost effectiveness.*

This project has the potential to improve delivery of outpatient surgical services to the residents of Spokane County and surrounding communities. The department is satisfied the project is appropriate and needed.

**This sub-criterion is met.**

# APPENDIX A

**APPENDIX A  
ASC Need Methodology  
Spokane County**

	Service Area Population: 2017	498,867	OFM							
	Surgeries @ 159.075/1,000:	79,357								
a.i.	94,250	minutes/year/mixed-use OR								
a.ii.	68,850	minutes/year/dedicated outpatient OR								
a.iii.	3	dedicated outpatient OR's x 68,850 minutes =		206,550	minutes dedicated OR capacity	4,216	Outpatient surgeries			
a.iv.	71	mixed-use OR's x 94,250 minutes =		6,691,750	minutes mixed-use OR capacity	63,948	Mixed-use surgeries			
b.i.		projected inpatient surgeries =	48,887	=	5,115,695	minutes inpatient surgeries				
		projected outpatient surgeries =	30,470	=	1,492,756	minutes outpatient surgeries				
b.ii.		Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's								
		30,470 - 4,216 =				26,254	outpatient surgeries			
b.iii.		average time of inpatient surgeries		=	104.64	minutes				
		average time of outpatient surgeries		=	48.99	minutes				
b.iv.		inpatient surgeries*average time		=	5,115,695	minutes				
		remaining outpatient surgeries(b.ii.)*ave time		=	1,286,206	minutes				
					6,401,901	minutes				
c.i.		if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use OR's								
		<b>USE THIS VALUE</b>								
		6,691,750								
		- 6,401,901								
		289,849	/	94,250	=	<b>3.08</b>				
c.ii.		if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94,250 to determine shortage of inpatient OR's								
		<b>Not Applicable - Ignore the following values and use results of c.i.</b>								
		5,115,695								
		- 6,691,750								
		(1,576,055)	/	94,250	=	<b>-16.72</b>				
		divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's								
		1,286,206	/	68,850	=	<b>18.68</b>				

Facility	Special Procedure Rooms	Dedicated Inpatient ORs	Dedicated Outpatient ORs	Mixed Use ORs	Inpatient min/case	Inpatient Cases in Mixed Use ORs	Inpatient Mins. In Mixed Use ORs	Outpatient Min/Case	Outpatient Cases	Outpatient Mins.	Data Source
Deaconess Hospital	6	0	0	18	105.2	10,669	1,122,768				Data obtained from Year 2013 survey.
Providence Holy Family	4	0	0	11	80.8	8,462	683,484				Data obtained from Year 2013 survey.
Providence Sacred Heart	5	0	0	34	119.7	21,507	2,573,443				Data obtained from Year 2013 survey.
Valley Hospital & Medical Center	2	0	0	6	82.9	5,803	480,806				Data obtained from Year 2013 survey.
Shriner's Hospital for Children	0	0	0	2	100.0	166	16,600	50.0	509	25,450	Data obtained from PHS-W application and Rockwood Health System public comment. Number of ORs substantiated by Construction Review Services
Advanced Dermatology & Skin Surgery	0	0	6	0	0.0	0	0	59.9	5,257	315,000	Data obtained from Year 2013 survey.
Aesthetic Plastic Surgical Center	0	0	1	0	0	0	0	169.0	86	14,534	Data obtained from Year 2013 survey.
Carol Hathaway, MD PS	0	0	1	0	0	0	0	50.0	90	4,500	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for FY 2011.
Empire Eye Surgery Center	0	0	2	0	0	0	0	23.7	1,025	24,314	Data obtained from Year 2013 survey.
Inland Empire Endoscopy Center	0	0	0	0	ENDOSCOPY ORS & MINUTES NOT COUNTED						
Inland Northwest Surgery Center	0	0	1	0	0	0	0	51.9	303	15,715	Data obtained from Year 2013 survey.
NEOS Surgery Center	0	0	1	0	0	0	0	50.0	1,377	68,850	Data obtained from ILRS. Facility does not provide # of procedures or minutes. Used default data in WAC 246-310-270(9)(a)(ii)-KN
Northwest Orthopedic Specialists	0	0	5	0	0	0	0	66.3	5,061	335,768	Data obtained from Year 2013 survey.
Northwest Surgery Center Inc.	0	0	2	0	0	0	0	48.9	344	16,836	Data obtained from Year 2013 survey.
NW OB GYN Center for Repro Health	0	0	1	0	0	0	0	13.5	198	2,673	Data obtained from Year 2013 survey.
Pacific Cataract & Laser Institute	0	0	2	0	0	0	0	50.0	2,286	114,300	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for FY 2011.
Rockwood Eye Surgery	0	0	3	0	0	0	0	12.4	1,085	13,458	Data obtained from Year 2013 survey.
Spokane Surgery Center	0	0	2	0	0	0	0	45.0	543	24,435	Data obtained from Year 2013 survey.
Sleep Dentistry of Spokane	0	0	1	0	0	0	0	60.0	687	41,220	Data obtained from Year 2013 survey.
Spokane Digestive Disease	0	0	0	0	ENDOSCOPY ORS & MINUTES NOT COUNTED						
Spokane ENT Clinic	0	0	4	0	0	0	0	59.5	2,716	161,492	Data obtained from Year 2013 survey.
Spokane Plastic Surgeons	0	0	1	0	0	0	0	95.0	65	6,175	Data obtained from Year 2013 survey.
Spokane Valley ASC	0	0	1	0	0	0	0	56.7	929	52,710	Data obtained from Year 2013 survey.
SRM Spokane	0	0	1	0	0	0	0	50.0	120	6,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for FY 2011.
Surgery Center of Spokane	0	0	0	0	0	0	0	0.0	0	0	Per ILRS; new facility in TA process with CRS
The Plastic Surgicenter	0	0	2	0	0	0	0	105.2	647	68,063	Data obtained from Year 2013 survey.
The Spokane Eye Surgery Center	0	0	5	0	0	0	0	18.4	5,521	101,641	Data obtained from Year 2013 survey.
Valley Endoscopy Center	0	0	0	0	ENDOSCOPY ORS & MINUTES NOT COUNTED						
Women's Health Connection	0	0	1	0	0	0	0	50.0	200	10,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for FY 2011.
<b>Totals</b>	<b>17</b>	<b>0</b>	<b>43</b>	<b>71</b>	<b>489</b>	<b>46,607</b>	<b>4,877,101</b>	<b>1,186</b>	<b>29,049</b>	<b>1,423,134</b>	
					Ave min/case		<b>104.64</b>	Ave min/case		<b>48.99</b>	
<b>ORs counted in numeric methodology</b>			<b>3</b>	<b>71</b>							
ILRS: Integrated Licensing & Regulatory System											
Population data source: OFM May 2012											
Total Surgeries	75,656										
Area population 2012	475,600										
Survey Year: 2012	159,075										
Planning Area projected population Year: 2017	498,867										
% Outpatient of total surgeries	38.40%										
% Inpatient of total surgeries	61.60%										